

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2009-0068
IN THE MATTER OF
IMPERIAL IRRIGATION DISTRICT, OWNER/OPERATOR
EL CENTRO GENERATING STATION
El Centro – Imperial County

This Order to assess Administrative Civil Liability (ACL) pursuant to California Water Code (CWC) Section 13385 is issued to Imperial Irrigation District, Owner/Operator of El Centro Generating Station, based on a finding of violations of Waste Discharge Requirements (WDRs) Order No. R7-2004-0086 (NPDES Permit No. CA0104248).

The Colorado River Basin Regional Water Quality Control Board (hereinafter Regional Board) finds the following:

1. Imperial Irrigation District (hereinafter, Discharger) located at P.O. Box 937, Imperial, California 92251, owns the El Centro Generating Station, which is a gas and oil fired power plant in the City of El Centro. The plant has a total of 240 Megawatts (MW) and consists of two (2) steam units and one (1) combined cycle unit. The steam units are rated at 77 MW and 46 MW, and the combined cycle unit is rated at 117 MW (85 MW gas turbine and 32 MW steam turbine). All units are cooled using water circulated through unit specific cooling towers.
2. On July 1, 2004, the Regional Board adopted WDRs Order No. R7-2004-0086 (NPDES Permit No. CA0104248) for the Discharger to regulate discharges of treated wastewater. The facility has a potential to discharge a maximum of 1.04 million gallons per day (MGD) of industrial cooling water to Central Drain No. 5, which flows into the Alamo River, which flows to the Salton Sea. The Central Drain No. 5, the Alamo River and the Salton Sea are waters of the United States.
3. CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation.
4. CWC Section 13385(h)(2) states, in part, the following: "For the purpose of this section, a 'serious violation' means any waste discharge that violates the effluent limitations...for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more."
5. CWC Section 13385(i)(1) requires the Regional Board to assess a Mandatory Minimum Penalty (MMP) of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in a six-month period:
 - a. Violates a WDRs effluent limitation;
 - b. Fails to file a report pursuant to Section 13260;
 - c. Files an incomplete report pursuant to Section 13260; or

- d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
6. CWC Section 13385(i)(2) states the following: “For the purposes of this Section [13385] a ‘period of six consecutive months’ means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”
7. WDRs Board Order No. R7-2004-0086 contains the following effluent discharge limitations:

Effluent Limitation A.8:

Constituent	Units	Date Effluent Limit Becomes Effective	Average Monthly Effluent Limit	Maximum Daily Effluent Limit
Nickel (Interim)	µg/L	July 1, 2004	12.0	13.5
Nickel (Final)	µg/L	July 1, 2009	6.71	13.5

8. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger’s power plant was in violation of its WDRs effluent limitations cited in Finding No. 7 above.
9. A summary of each violation of Board Order No. R7-2004-0086 is contained in Attachment “A,” which is incorporated in and made a part of this ACL Order by reference.
10. CWC Section 13385(l) states in pertinent part:
- “(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the state board.
- “(2) For the purposes of this section, a ‘supplemental environmental project’ means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board that would not be undertaken in the absence of an enforcement action under this section.”
11. On February 19, 2002, the State Water Resources Control Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Policy). The Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. In accordance with Section IX of the Policy, among other requirements, SEPs proposed by the Discharger must “enhance the beneficial uses of the waters of the State, provide a benefit to the public at large, and that, at the time they are included in an ACL action, are not otherwise required of the discharger.” (Enforcement Policy pp 42-43).

12. On July 13, 2009, the Assistant Executive Officer issued ACLC No. R7-2009-0024 to the Discharger for serious and chronic violations of nickel concentration limits. The ACLC proposed a MMP of \$15,000 for the violations.
13. On July 27, 2009, the Discharger proposed the implementation of a SEP described in Attachment "B", which is made a part of this ACL Order by reference.
14. The Regional Board heard and considered all comments pertaining to this matter in a public meeting held on September 17, 2009 in Palm Desert, California.
15. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), in accordance with Section 15321 (a)(2), Title 14, California Code of Regulations.
16. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with CWC Section 13320 and California Code of Regulations, Title 23, Sections 2050 and following. The State Water Board must receive the petition no later than 5:00 p.m., thirty (30) days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality. Copies will also be provided upon request.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, the Discharger is assessed fifteen thousand dollars (\$15,000) in ACL penalties for the violations set forth in Attachment "A". In lieu of paying an ACL penalty in the amount of \$15,000, the Discharger shall pay a reduced penalty amount of \$7,500 in accordance with CWC Section 13385(I) and shall implement the proposed SEP described in Attachment "B", attached to and made part of this Order by reference, in accordance with the following:

1. The Discharger shall comply with the State Water Board Enforcement Policy relating to implementation of SEP.
2. The SEP shall be implemented in accordance with the time schedule stipulated in Attachment "C", attached to and made a part of this Board Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for the SEP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its WDR, and is beyond the reasonable control of the Discharger.
3. The suspended portion of the proposed ACL penalty of \$15,000 that is hereby directed to be expended on the SEP is \$7,500. The discharger shall pay within thirty (30) days of the date of this Order the remaining penalty portion of \$7,500. Payment by check of this amount shall be made payable to the "State Water Pollution Cleanup and Abatement Account" and mailed to the address shown in paragraph 7 below.

4. If the Discharger completes a stipulated phase of the SEP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL penalty indicated in Attachment "C", the amount of \$7,500 shall be permanently suspended. Similarly, if the Discharger fails to complete any stipulated phase of the SEP to the satisfaction of the Executive Officer by the approved date, and the Executive Officer has not approved an extension in the completion date, the corresponding portion of the ACL penalty shall become due and payable by the Discharger within 30 days of being so informed in writing.
5. Previously suspended amounts do not relieve the discharger of the independent obligation to take necessary actions to achieve compliance.
6. Completion of the SEP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.
7. The Discharger shall submit all unspent ACL amounts, made payable to the "State Water Pollution Cleanup and Abatement Account", to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
ATTN: Hilda Vasquez
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on September 17, 2009.

ROBERT PERDUE, Executive Officer

ATTACHMENT "A"

Summary of Violations of Board Order No. R7-2004-0086 Mandatory Minimum Penalties

Assessed Violation¹ No.	Date Occurred	Description of Violation	Serious Violation Defined by CWC 13385(h)	Amount Assessed Dollars (\$)
777117	6/30/2008	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 16 µg/L	Yes	Assessed in ACLC No. R7-2008-0062
782795	7/1/2008	Exceeded daily maximum concentration for nickel. Limitation = 13.5 µg/L Reported value = 17 µg/L	Yes	Assessed in ACLC No. R7-2008-0062
782809	7/31/2008	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 17 µg/L	Yes	Assessed in ACLC No. R7-2008-0062
786328	8/4/2008	Exceeded daily maximum concentration for nickel. Limitation = 13.5 µg/L Reported value = 17 µg/L	Yes	Assessed in ACLC No. R7-2009-0016
786329	8/30/2008	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 17 µg/L	Yes	Assessed in ACLC No. R7-2009-0016
790605	9/16/2008	Exceeded daily maximum concentration for nickel. Limitation = 13.5 µg/L Reported value = 19 µg/L	Yes	Assessed in ACLC No. R7-2009-0016
790608	9/30/2008	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 19 µg/L	Yes	Assessed in ACLC No. R7-2009-0016
814593	12/01/2008	Exceeded daily maximum concentration for nickel. Limitation = 13.5 µg/L Reported value = 22 µg/L	Yes	3,000
814594	12/31/2008	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 22 µg/L	Yes	3,000
820879	04/06/2009	Exceeded daily maximum concentration for nickel. Limitation = 13.5 µg/L Reported value = 17 µg/L	Yes	3,000
820880	04/30/2009	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 17 µg/L	Yes	3,000
820750	05/31/2009	Exceeded monthly average concentration for nickel. Limitation = 12 µg/L Reported value = 13 µg/L	No	3,000

Total: \$15,000

¹ Data Source: California Integrated Water Quality System (CIWQS)

ATTACHMENT "B"



July 27, 2009.

Mr. Jose Angel
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Subject: Administrative Civil Complaint No. R7-2009-0024 for Imperial Irrigation District El Centro Generating Station

Dear Mr. Angel:

The Imperial Irrigation District (IID) respectfully submits the following written response to the above-referenced Administrative Civil Liability Complaint (Complaint).

The IID will not contest the proposed Complaint or \$15,000 dollar civil liability and chooses to waive the right to a hearing before the Regional Water Board. However, the IID proposes a settlement plan to pay the requisited \$7,500 dollars to the "State Water Pollution Cleanup and Abatement Account" and the remaining \$7,500 to a Supplemental Environmental Project (SEP).

The IID proposes an SEP in conjunction with the Imperial County Farm Bureau's Voluntary TMDL Compliance Program (Program). This SEP would be used to supplement the Program's 319h grant funding and to help sustain the Program's present TMDL-related activities.

We appreciate your consideration of this matter. Should you have any questions regarding this proposal, please contact Michael Taylor at 760-339-0506.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Olsowski", is written over a horizontal line.

Henryk A. Olsowski
Asst. Manager, Energy

RECEIVED

AUG 13 2009

REGION 7

COPY

OPERATING HEADQUARTERS • P.O. BOX 937 • IMPERIAL, CA 92251-0937

ATTACHMENT "C"

**STIPULATED TIME SCHEDULE
FOR THE IMPLEMENTATION OF A SUPPLEMENTAL ENVIRONMENTAL PROJECT**

Phase No.	Description of SEP	Completion Date	Due Date	Portion of ACL Penalty that May be Suspended
1	Supplement the Imperial County Farm Bureau's TMDL Compliance Program's 319h grant funding,	September 17, 2010	Final report due on or before December 1, 2010	\$7,500